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Attorneys for Defendant, MEMBER SOURCE MEDIA, LLC

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**ASIS INTERNET SERVICES**, a California  
corporation,

Plaintiff,

vs.

**MEMBER SOURCE MEDIA, LLC, et al.,**

Defendants.

Case No. CV-08-1321 EMC

**MEMBER SOURCE MEDIA, LLC'S  
NOTICE OF MOTION AND MOTION  
FOR SECURITY FOR COSTS  
INCLUDING ATTORNEYS' FEES**

Date: June 11, 2008  
Time: 10:30 AM  
Ctrm: C, 15<sup>th</sup> Floor

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on June 11, 2008 or as soon thereafter as this  
 3 matter may be heard in Courtroom C, 15<sup>th</sup> Floor, located at 450 Golden Gate Avenue,  
 4 San Francisco, CA 94102, Defendant Member Source Media, LLC ("Member Source")  
 5 will and hereby does move this Court for an order requiring Plaintiff ASIS Internet  
 6 Services ("ASIS") to post security for the costs and attorneys' fees Member Source  
 7 reasonably expects to incur in defending this action in the amount of Two Hundred  
 8 Thousand Dollars (\$200,000).

9 This motion is made pursuant to 15 U.S.C. §7706(g)(4), Local Rule 65.1-1, and  
 10 the Court's inherent power, all of which permit the Court to exercise its discretion to  
 11 require ASIS to post security for the payment of Member Source's costs, including  
 12 attorneys' fees. Such security should be required here because: a) the Northern District  
 13 of California has already found that ASIS has no standing to bring CAN-SPAM claims, b)  
 14 the complaint in this case is nearly identical to ASIS's previously dismissed CAN-SPAM  
 15 case, c) ASIS has a pattern and practice of engaging in overly-broad and abusive  
 16 discovery, and d) ASIS has admitted that it is on the brink of bankruptcy.

17 This motion is based on this notice, the Memorandum of Points and Authorities in  
 18 support of this motion, the declarations of Henry M. Burgoyne and Christopher Sommer  
 19 in support of this motion, and any additional evidence and argument that the Court may  
 20 receive at or before the hearing on this motion.

21  
 22 Dated: May 6, 2008

Henry M. Burgoyne, III  
 Karl S. Kronenberger  
 Jeffrey M. Rosenfeld  
 Kronenberger Burgoyne, LLP

23  
 24  
 25 By: /s/  
 26 Jeffrey M. Rosenfeld

27 Attorneys for Defendant,  
 28 MEMBER SOURCE MEDIA, LLC